

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUSSELL BRADBERRY, individually and  
on behalf of a class of similarly  
situated individuals,

No. C 06-6567 CW

Plaintiff,

v.

T-MOBILE USA, INC., a Delaware  
corporation,

Defendant.

RUSSELL BRADBERRY, individually and  
on behalf of a class of similarly  
situated individuals,

No. C 07-5298 CW

Plaintiff,

v.

MBLOX, INC., a Delaware corporation,

Defendant.

ORDER DENYING  
WITHOUT PREJUDICE  
MBLOX'S MOTION FOR  
CONSOLIDATION

Defendant in Case No. 07-5298, mBlox, Inc., moves to  
consolidate that case with related Case No. 06-6567.<sup>1</sup> Plaintiff

<sup>1</sup>mBlox actually moves for "joinder" of the two cases and, in the alternative, for consolidation. However, permissive joinder, which is governed by Rule 20(a) of the Federal Rules of Civil Procedure, refers to the right of a plaintiff to name persons as defendants. It is inapposite to the procedural context of mBlox's motion.

1 Russell Bradberry opposes mBlox's motion, arguing that his case  
2 against T-Mobile has advanced considerably further than the mBlox  
3 action, which was only removed to federal court recently. The  
4 parties in the T-Mobile case are also undertaking settlement  
5 discussions, and have stipulated to stay all court proceedings for  
6 a period of seventy-five days.

7 Rule 42(a) of the Federal Rules of Civil Procedure provides:

8 When actions involving a common question of law or fact  
9 are pending before the court, it may order a joint  
10 hearing or trial of any or all the matters in issue in  
11 the actions; it may order all the actions consolidated;  
12 and it may make such orders concerning proceedings  
13 therein as may tend to avoid unnecessary costs or delays.

14 A district court may exercise "broad discretion" when deciding  
15 whether to consolidate two actions. In re Adams Apple, Inc., 829  
16 F.2d 1484, 1487 (9th Cir. 1987).

17 The two cases here indisputably involve common questions of  
18 law and fact. However, the T-Mobile case has been stayed while the  
19 parties attempt to reach a negotiated settlement of Plaintiff's  
20 claims. Thus, consolidating the cases at this time would not be in  
21 the interest of judicial economy. Nonetheless, if the T-Mobile  
22 case does not settle, the Court may order consolidation or a joint  
23 trial. In any event, coordination of the pretrial aspects of the  
24 two cases will be desirable.

25 For these reasons, mBlox's motion to consolidate (Docket No.  
26 94 in Case No. 06-6567; Docket No. 6 in Case No. 07-5298) is DENIED  
27 without prejudice to refile pending the outcome of the settlement  
28 negotiations currently underway in Case No. 06-6567. Pretrial  
preparation in Case No. 07-5298 shall proceed as planned, and all

1 parties in both cases shall appear for a joint case management  
2 conference on February 19, 2008 at 2:00 p.m. This conference will  
3 serve as the initial case management conference in Case No. 06-  
4 6567; all other deadlines in the Court's Order Setting Initial Case  
5 Management Conference and ADR Deadlines are adjusted to correspond  
6 to the new conference date of February 19.

7 IT IS SO ORDERED.

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9 Dated: 12/6/07



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CLAUDIA WILKEN  
United States District Judge